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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,348	02/17/2006	Marinus Lambertus Wilhelmus Van De Sande	54950/DBP/A394	8999

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EXAMINER

LOW, LINDSAY M

ART UNIT	PAPER NUMBER
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3721

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/533,348

Applicant(s)

VAN DE SANDE, MARINUS
LAMBERTUS WILHELM

Examiner

Lindsay M. Low

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 7-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 April 2005 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>2/17/2006 and 5/26/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of a device for arranging at least two bands around one or more packets in the reply filed on 12/26/2006 is acknowledged.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Information Disclosure Statement

3. The Information Disclosure Statement (IDS) submitted on February 17th, 2006 is acknowledged. Although it does not include a concise explanation of the relevance of each patent listed that is not in the English language as required under 37 CFR 1.98(a)(3), the translation of the first claim in each of those patents is deemed a statement of relevance. Therefore, the references therein have been considered.

Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the tooth-like protrusions in claim 4 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: P1, P3, VIII, and IX.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Arrow 1 (page 4). There is only an Arrow P1 in the drawings.

6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

8. The usual headings "Background of the Invention," "Brief Summary of the Invention," "Brief Description of the Drawings," etc should be utilized.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Every single feature that is used in order to make and work the device should be listed after the term "consisting of." Since claim 1 does not disclose every feature that will make the device work, the term should be "comprising."

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-2, and 4-5 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203).

Van der Waal discloses the same invention including a frame 4, a conveyor 2 that is supported by the frame and is used for moving packages forward, band clamping and guiding means (Figs. 2-8) which move transversely of the conveyor away and toward each other and are connected to supply reels 6, and welding means (col. 3 lines 31-38). A first group of band clamping and guiding means has a first pair of jaws 16 and 19 and a second group with a second pair of jaws (Fig. 1) where each group is arranged one above the other. Each group is capable of holding different types of tape, such as metal, another fusible material, or non-fusible material (col.1 lines 65-69 and col. 3 line 31). Therefore, the tape can be considered to be of the film type. In addition, each jaw has a clamping surface (17,20) and a guiding surface (18, 21), which runs transversely to the direction of movement of the package and co-acts with the surface of the other jaw (Fig. 4). The surfaces are provided with tooth-like protrusions (Fig. 4) lying in a direction opposite of the pulling direction. It is deemed inherent that a motor drives the supply rolls, i.e. a motor causes a pulling force on the tapes which, in turn, drive the supply reels.

Van der Wal fails to disclose the conveyor being a belt. However the examiner takes Official Notice of the well-known use of a belt for conveying in order to provide smooth and continuous transportation of objects. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute Van der Wal's conveyor rollers with a conveyor belt for the purpose of smoothly and continuously transporting packages to be strapped.

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13. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) in view of Odenthal (5,735,104).

Van der Wal discloses the same invention substantially as claimed except that a second band is of a larger width than the first band. However Odenthal teaches a device for wrapping two different size bands around packages for the purpose of providing support by making one band a tray-forming strap (col. 2 lines 53-55).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to use a second band as taught by Odenthal that is of a different width for the purpose of providing more support to Van der Wal's package.

14. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van der Wal (3,950,203) in view of Odenthal (5,551,212).

Van der Wal discloses the same invention substantially as claimed except for a second band being provided with a label. However Odenthal teaches a device for wrapping bands around packages where a band can be embossed or printed, thus being provided with a label for the purpose of providing an advertisement or identification of the package (col. 2 lines 39-41). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to have a second band that has print or embossment on it as taught by Odenthal for the purpose of providing an advertisement or identification of the package being wrapped.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Van Ottele (711), Van Ottele (648), Wildmoser (182), Hernke et al, Medlock, Wildmoser (668), Martin Cocher et al, Lacey, De Vlaam, Gurak et al, Lancaster, Mertens, Frank et al, Allfree, Allison, DuBroff, and Labardi are cited to show similar inventions.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lindsay M. Low whose telephone number is 571-272-1196. The examiner can normally be reached on Monday thru Friday 7:30 to 5:00.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LML



1/10/2007



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